

Supplementary Analysis Report: fast-track approvals for electricity infrastructure on high value conservation land

Coversheet

Purpose of Document	
Decision sought/taken:	<i>Analysis produced for the purpose of informing final Cabinet decisions on Amendment Paper to the Fast-track Approvals Bill</i>
Advising agencies:	<i>Department of Conservation</i>
Proposing Ministers:	<i>Minister of Conservation</i>
Date finalised:	<i>9 October 2024</i>
Problem Definition	
<p>As currently drafted, the Fast-track Approvals Bill (the Bill) excludes projects on some types of high value conservation land. Electricity industry stakeholders that submitted on the Bill considered that this would pose a barrier to being able to use fast-track processes for maintenance and development of critical electricity infrastructure. Cabinet agreed and directed officials to provide for fast-track projects to occur on high value conservation land where there are:</p> <ul style="list-style-type: none"> existing electricity transmission infrastructure (such as upgrades and maintenance), provided the proposal would not materially change the scale or effects of the infrastructure; new electricity transmission infrastructure where that cannot practically or reasonably occur elsewhere; or continued, unchanged operations of existing electricity generation, provided the proposal does not materially change the scale or effects of the infrastructure. 	
Executive Summary	
<p>This document considers how to address the possibility that some critical electricity projects will not be able to access the fast-track process provided by the Bill, as projects on high value conservation land are ineligible.</p> <p>It outlines three policy options:</p> <p>Option One – new transmission projects must be consistent with the purpose for which the area is protected.</p> <p>Option Two – conservation considerations in the Bill apply, with some protected area types excluded for new transmission projects.</p> <p>Option Three – electricity works on high value conservation land are eligible for fast-track.</p> <p>Ministers have selected Option Two. This option will ensure the highest value areas (approximately 10%) of conservation land will remain ineligible for new electricity transmission through fast-track, while enabling development of new electricity transmission infrastructure on other areas of high value conservation land. This will be beneficial to electricity developers who will likely have lower costs through being able to access the fast-track process.</p>	

The status quo option, which would be to continue to exclude all fast-track approvals from high value conservation land, has been excluded from the analysis as Ministers decided against it before this document was prepared.

Limitations and Constraints on Analysis

The proposals presented in this SAR are constrained by decisions that have already been made by Ministers to progress the Fast-track Approvals Bill as per the coalition agreement commitment made between the National Party and the New Zealand First Party, which required a Fast-track consenting Bill to be introduced in the Government's first 100 days in office.

We have identified the following limitations and constraints:

- **Constrained timeframes** – the work to progress the Fast-track Approvals Bill is occurring at pace. Ministers are committed to having this Bill enacted by the end of 2024.
- **Limited scope** – scope of options and assessment is constrained given the previous direction and decisions on the wider work of the Fast-track Approvals Bill. Ideally, we would have undertaken an analysis looking at the wider scope of options, impacts, benefits and risks.
- **Limited analysis** – given timeframes and availability of data and evidence, the analysis undertaken has been limited. Criteria for analysis are aligned with those used in previous regulatory impact analyses on the Bill, which focus on preventing barriers to development.
- **Costs and benefits** – these have been difficult to quantify. Where possible, we have anticipated where costs and benefits will likely fall. However, their monetary value was difficult to quantify in the time we have had available to complete this analysis. The cost benefit analysis is qualitative due to the timeframe constraints, data limitations and uncertainty as to the impacts of various proposals once implemented.
- **Consultation/engagement** – the proposals in this document have not been consulted on with relevant parties, and were not included in the Bill as considered during the Select Committee stage.
- **Monitoring, evaluation and review** – these processes have not yet been fully worked through.

Responsible Manager(s) (completed by relevant manager)

Angela Bell
Manager, Marine Policy
Department of Conservation



14 October 2024

Quality Assurance (completed by QA panel)

Reviewing Agency:	Department of Conservation, Ministry of Business, Innovation and Employment
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Panel Assessment & Comment:

An independent panel has assessed the Supplementary Analysis Report for the proposals in this Cabinet paper and determined that it partially meets the quality expectations for regulatory impact analysis.

The proposal is to change the parameters within which electricity projects can access the fast-track system for approvals and concessions for projects on conservation land. Given that no consultation about the change has occurred with stakeholders and the constraint that monitoring and evaluation has not yet been determined, it will be important that the implementation processes consider mitigations for the constraints and limitations in the analysis.

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

1. Under current policy settings, people seeking to undertake work on public conservation land will often require both a resource consent, and one or more conservation approvals (such as a concession under the Conservation Act 1987).
2. Conservation approvals typically require an assessment of the activity's effects, and whether the proposed activity is consistent with statutory planning documents. Most conservation approvals also require consultation with relevant iwi, hapū and whānau. Some activities require public notification (such as where the applicant has requested to lease public conservation land). While the time to process applications varies, for long term concessions it can take up to two years or more.
3. The Fast-Track Approvals Bill (the Bill) aims to increase efficiency and affordability of development. To do this, it establishes a 'one-stop shop' where multiple authorisations can be sought through one process. Alongside approvals in the Resource Management Act, this includes the following conservation approvals:
 - specific permissions under the Freshwater Fisheries Regulations 1983
 - concessions and approvals under the Conservation Act 1987 and Reserves Act 1977
 - exchanges of land under the Conservation Act and Reserves Act
 - amending or revoking some types of conservation covenants under the Conservation Act and the Reserves Act
 - authorities provided under the Wildlife Act 1953
 - access arrangements under the Crown Minerals Act 1991
4. In the Bill as introduced, projects proposed on high value conservation land (defined as land in Schedule 4 of the Crown Minerals Act 1990) are ineligible for fast-track approvals. This is because the environmental tests in the Bill are less stringent than those in existing conservation legislation and it was not considered appropriate to apply them to the highest value conservation areas. The areas ineligible under the Bill are roughly one third of public conservation land.
5. Electricity projects on public conservation land usually require both concessions and resource consents. This means that they would benefit from accessing the one-stop shop. The less stringent environmental tests in the Bill also mean that developers would likely benefit from accessing fast-track, even where only one approval is required.

6. Concessions for electricity work on public conservation land can be, and already have been, granted under status quo policy settings in some circumstances (for example, there are approximately 140km of transmission lines in national parks).
7. If the status quo continues:
 - it is likely that some electricity activities that could have negative impacts on conservation values, but provide other benefits, will be prevented from accessing the fast-track system; and
 - electricity activities that may have minimal negative impacts would be prevented from accessing fast-track processes.

What is the policy problem or opportunity?

8. The ineligibility of the highest value conservation lands is the most significant remaining safeguard within the Bill for conservation. The constrained consideration of the environmental effects of fast-tracked proposals means that the significant conservation and other values attached to these areas is unlikely to be able to be appropriately safeguarded by the decision-maker. During the submissions process on the Bill, many submitters expressed support for excluding high value conservation land from fast-track, and some submitters, such as the New Zealand Conservation Authority, and environmental NGOs, requested that additional land be ineligible for fast-track, such as stewardship land and UNESCO World Heritage Areas.
9. Conversely, a few submitters (such as Meridian and Transpower) raised concerns that excluding projects on high value conservation land would mean that some electricity projects that could provide significant benefits would be ineligible for the fast-track process (although they could continue to access existing conservation and resource management approvals systems). For example, new and upgraded transmission infrastructure to enable electrification of transport will be a very significant part of reducing carbon emissions, so submitters considered projects of this type should be able to access the fast-track system including on high value conservation land. This was particularly noted as an issue for linear infrastructure (such as transmission lines), as there may be cases where requiring a project to avoid high value conservation land would be significantly more costly.
10. Allowing maintenance of existing transmission and generation infrastructure to access fast-track where it does not materially change the effects is relatively low risk, as the infrastructure is already in place, and the marginal effects of maintenance and upgrades are likely to be relatively small. Maintenance of electricity infrastructure may require a concession if it would include, for example, tree felling, or use of an aircraft in a national park.
11. However, new transmission infrastructure is different, as the impacts will be more significant and on areas that may not already be modified. Given the value of these areas (both for conservation and other values, and for tourism), our view is that this warrants some additional constraints. In addition, the high level of public interest in these types of conservation land warrants a more public process for consideration of significant projects than is possible under the Bill.
12. The policy opportunity is to clarify the parameters within which electricity projects can access the fast-track system.

What objectives are sought in relation to the policy problem?

13. The objective sought is to provide for fast-track projects for critical electricity infrastructure to occur on high value conservation land, while minimising the impacts on conservation values.
14. The decision criteria to assess options against this objective are consistent with those used in previous regulatory impact analyses on the Bill. The Bill was carefully designed to unlock development while providing appropriate safeguards for nature. However, because the proposal in this document is a fundamental change to the fast-track system (through allowing fast-track projects in high value conservation areas), it is necessary to clarify that the outcomes sought include protecting the highest value conservation areas. A new criterion has been added to ensure this is reflected.
15. For the purposes of this analysis, the decision criteria are:
 - Expediency: achieve the outcome sought in the quickest timeframe available.
 - Reduce cost and provide savings: to infrastructure developers, local communities, and future generations.
 - Simplicity: reduce bureaucracy needed to support decision-making and minimise the number of decisions needed to achieve an outcome.
 - Certainty: to provide major projects with confidence that approvals will be granted, and the development can proceed, that they have sufficient assurance to rely on to receive funding and financing support.
 - Effectiveness: prevent major projects from being delayed by rules and broader policy objectives set by resource management national direction, regional/district planning provisions, conservation statutory documents, and the purpose for which conservation land is held.
 - Uphold Crown obligations under Te Tiriti o Waitangi: honour the Treaty and uphold settlements and other arrangements.
 - Manage risks: minimise unintended consequences.
 - Protect conservation values: ensure that the biodiversity and ecological values of an area are upheld.

Section 2: Deciding upon an option to address the policy problem

What scope will options be considered within?

16. This document considers options consistent with what has already been decided for the Bill – that is, at a minimum, electricity operators can access the fast-track process for the following types of projects (collectively referred to as “electricity works”) on high value conservation land:
 - existing electricity transmission infrastructure (such as upgrades and maintenance), provided the proposal would not materially change the scale or effects of the infrastructure;
 - new electricity transmission infrastructure where that cannot practically or reasonably occur elsewhere; and

- continued, unchanged operations of existing electricity generation, provided the proposal does not materially change the scale or effects of the infrastructure.
- This SAR explores two possible adjustments to the decisions Cabinet has made, which are intended to manage the risks associated with allowing new electricity transmission infrastructure to access the fast-track process, and the associated less-stringent environmental tests.
 - For all the options being considered, marine reserves would be ineligible for fast-track approvals because:
 - they are not part of the concessions framework, and a new permissions framework would need to be developed which would have timeframe implications for the Bill; and
 - marine reserves are small and relatively few, so routing infrastructure around them should not hinder critical development.
 - The options analysis table (page 10) compares the options to the status quo in the Bill, in which all high value conservation land is excluded from the fast-track process. However, the status quo is not included in the list of options considered, as Cabinet has decided against the status quo.

What options are being considered?

- The options are spelled out in more detail below, but summarised in this table for clarity.

Table One: Summary of options

	Bill Status Quo	Option One	Option Two	Option Three
Which land is in scope?	All high value conservation land is ineligible	All high value conservation land	Some high value conservation land is ineligible for new transmission activities (eg nature reserves, wilderness areas)	All high value conservation land
What decision-making criteria apply?	Not applicable, as fast-track activities cannot occur on high value conservation land	New transmission activities must be consistent with the purpose an area is protected, in addition to meeting standard fast-track considerations for concessions	Assessed the same as other fast-track concessions	Assessed the same as other fast-track concessions

Option One – new transmission projects must be consistent with the purpose for which the area is protected

15. In this option, maintenance, upgrades and continued operation of existing electricity transmission and generation activities on most high value conservation land could access the fast-track process using the same decision-making criteria as other concessions under the fast-track process.
16. New transmission projects in high value conservation areas must be consistent with the purpose for which the land is held. This test must be met regardless of the benefits of the project. The purpose would be interpreted as the purpose under the legislation for the relevant protected area (such as the National Parks Act), alongside any relevant provisions within a national park management plan, conservation management plan, or conservation management strategy, as well as the Conservation General Policy and the General Policy for National Parks (where applicable).
17. This is a test that applies under existing conservation legislation. Additional considerations would align with those for broader concessions as already agreed for the Bill. The purpose of the Bill would be a consideration but would not be weighted above the purpose for which the land is held.
18. The exclusion of high value conservation land is one of the only remaining safeguards for biodiversity values in the Bill. It is appropriate that there are higher thresholds for projects to be approved within areas with the highest values. This allows electricity works to be fast-tracked, but requires greater consideration of the conservation values associated with the land.
19. DOC's experience is that small-scale electricity infrastructure can be, and has been, approved in high value conservation areas in some circumstances. Where large-scale electricity works would be inconsistent with the purpose of a high value protected area, the project may not be approved under this option. DOC has not had large-scale electricity projects applying for approvals in recent years, so the outcome has not been tested under the status quo.

Option Two – conservation considerations in the Bill apply, with some protected area types excluded for new transmission projects

20. In this option, maintenance, upgrades and continued operation of existing electricity transmission and generation activities on most high value conservation land could access the fast-track process.
21. New electricity transmission activities could also access the fast-track process, although some sub-categories of high value conservation land (outlined in Table Two) would be excluded, collectively representing slightly less than 10% of public conservation land. These sub-categories cover areas where the purpose is for natural values of the land to be preserved and protected, and where there are exceptionally high conservation values present. These areas generally have public access restrictions under current legislation. We also consider that these areas are unlikely to be relevant to critical electricity infrastructure because of their location and remoteness (e.g., many are on offshore islands, or are in areas a day's walk from the closest road), or their size (many are small so could likely be avoided).
22. New transmission projects, as well as maintenance and continued operation of transmission and generation activities, could still be applied for through fast-track in scientific reserves, sanctuary areas, wildlife sanctuaries, national reserves (except some national reserves which have a dual classification as nature reserves), and most national park areas (other than specially protected areas and wilderness areas within

national parks). This is because these areas, although still of high conservation value, are either not quite as high value as those in Table Two, have some level of development already (e.g. villages in national parks), or are generally closer to towns and roads and are therefore more likely to be relevant to critical electricity infrastructure.

23. Maintenance or upgrades of existing transmission lines, and continued operation of generation activities would still be able to be fast-tracked on all high value conservation land (except marine reserves as explained earlier). Excluding the areas in Table Two from new transmission projects does not mean that these projects could never occur; developers will still be able to apply for permission using existing processes and legislative tests.

Table Two: Protected area types to be excluded from fast-track for new transmission lines, under Option Two

Classification	Rationale
Specially protected areas (small areas within national parks)	<p>Under current legislation, no person is allowed to enter these areas without a permit from the Minister of Conservation, and no permit shall be issued unless it is for a purpose consistent with the management plan of the national park. They are set apart to preserve intact, with minimum human interference, areas that possess indigenous plant or animal life or ecological, geological or historical features of significance.</p> <p>These areas make up approximately 0.7% of public conservation land, or 0.2% of all of New Zealand's land area. Examples include the Takahē Protection Area in Fiordland.</p>
Nature reserves	<p>Under current legislation, no person is allowed to enter these areas without a permit from the Minister of Conservation. This is because their purpose is to protect and preserve indigenous flora and fauna that are of such rarity, scientific interest or uniqueness that their protection and preservation is in the public interest.</p> <p>The majority of nature reserves are on small offshore islands; examples include Te Hauturu-o-Toi / Little Barrier Island. Altogether they make up approximately 1% of public conservation land, or 0.4% of New Zealand's land area.</p>
Wilderness areas	<p>Under current legislation, no building, road or track can be constructed or maintained in these areas, and no vehicles may be taken into the areas. They are managed to preserve their natural condition with minimal human interference, and the majority are very remote.</p> <p>Wilderness areas are approximately 6% of public conservation land, or 1.8% of New Zealand's land area. Examples include the Pembroke Wilderness Area which borders Milford Sound.</p>
Ramsar sites	<p>New Zealand has designated seven sites as wetlands of international importance. Criteria for these include (but are not limited to) that they are rare or unique wetland types, or that they support threatened conservation values. Collectively they make up around 0.7% of conservation land; examples include the Firth of Thames which is one of New Zealand's most important coastal sites for shorebirds.</p>

Option Three – electricity works on high value conservation land are eligible for fast-track

- 24. In this option, electricity works on high value conservation land would be eligible to access the fast-track process.
- 25. The existing requirements in the Bill for concessions on lower value conservation land would also apply to electricity works on high value conservation land. These requirements are less stringent than those that apply to conservation approvals outside the fast-track regime (for example, statutory conservation plans are not required to be complied with, through the fast-track system).
- 26. While this option would be most enabling of development, it would create risks to biodiversity and conservation values. Some areas are also subject to international legal obligations under the Ramsar Convention on Wetlands. Infrastructure across these sites may be inconsistent with New Zealand’s international obligations, unless it can be demonstrated that infrastructure does not negatively change the ecological character of these internationally protected sites. The option would also bring more areas that are protected as part of World Heritage sites into the scope of fast-track regime.

How do the options compare to the status quo?

- 27. For the options analysis, we are aware that all the available options result in the same “score”. However, we have identified Options One and Two as preferred, because of novelty of the fast-track regime, as well as the lack of public engagement on the options, we consider it is beneficial to err on the side of minimising risks.

Key for qualitative judgements	
++	Much better than the status quo
+	Better than the status quo
0	About the same as the status quo
-	Worse than the status quo
--	Much worse than the status quo

	Commentary on status quo – no fast-track activities on high value conservation land	Option One – new transmission projects must be consistent with the purpose for which the area is protected	Option Two – conservation considerations in the Bill apply, with some protected area types excluded for new transmission projects	Option Three – Electricity works on high value conservation land (except marine reserves) are eligible for fast-track
Expediency	Electricity works could potentially occur on high value conservation land, though the process for this is likely to be slower and more complex than any of the options.	+	+	++
Reduce cost and provide savings	Likely to be more expensive to developers than any of the options, as they will need to go through conservation approvals and resource consent processes separately, which would be more time-consuming.	+	+	+
Simplicity	Developers are likely to have to apply for a resource consent and conservation approvals separately	+	+	+
Certainty	Developers would need to show that their project is consistent with the purpose for which an area is protected, which means certainty varies depending on the project type and protected area type.	0	+	+
Effectiveness	Would not increase effectiveness of the consenting/approvals regime for developers.	+	+	++
Uphold Crown obligations under Te Tiriti o Waitangi	The status quo is most consistent with the Crown's obligations, as it was publicly consulted, and does not expand the scope of land which would not require explicit consideration of Treaty principles.	--	--	--
Manage risks	This option is most effective for risk management, as more demanding environmental tests would apply for works on high value conservation land.	-	-	--
Protect conservation values	Ensure the highest value conservation areas will not be included in the fast-track regime	0	-	--
Overall assessment		A preferred option given that the status quo is not available.	A preferred option given that the status quo is not available.	Not recommended.

What was the Government’s preferred option, and what impacts will it have?

28. The option that the Government decided to pursue is Option Two – conservation considerations in the Bill apply, with some protected area types excluded for new transmission projects.
29. This option will enable fast-track electricity works to occur on most high conservation land, while continuing to protect some of the very highest value areas from new electricity transmission infrastructure (noting that such activities could still potentially occur through existing conservation legislation processes).

What are the marginal costs and benefits of the option?

Affected groups <i>(identify)</i>	Comment <i>nature of cost or benefit (eg, ongoing, one-off), evidence and assumption (eg, compliance rates), risks.</i>	Impact <i>\$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.</i>	Evidence Certainty <i>High, medium, or low, and explain reasoning in comment column.</i>
Additional costs of the chosen option			
Project developers	No identified costs.	-	-
Central government departments (as regulators)	Reputational impacts in an international context, if approvals are given to undertake electricity works in internationally-significant sites (such as in World Heritage Areas).	Low	Low – it is not clear where developers would undertake new electricity works, and therefore the extent of potential impacts.
Local government	Possible impacts on regional tourism, if landscape values of high value areas are reduced.	Low	Low – it is not clear where developers would undertake new electricity works and therefore the location and/or extent of potential impacts.
General public as part of current generation	Areas that have previously been high value conservation land may have reduced value through the inclusion of electricity infrastructure.	Low	Medium – where electricity works are approved on high value conservation land, this could impact on the public’s enjoyment of these areas.
General public as part of future generations	Areas that have previously been high value conservation land may have reduced value through the inclusion of electricity infrastructure.	Low	Low – the same as for the general public as part of current generation.
Iwi/Māori	Areas which may be included in future Treaty settlements may be	Low	Low – it is not clear where developers would undertake new

	impacted by electricity infrastructure approved through the fast-track process.		electricity works and therefore the location and/or extent of potential impacts.
Biodiversity values	Areas which are highly protected habitat for threatened species may have infrastructure established through the less-stringent environmental tests in the fast-track regime.	Medium – would vary significantly depending on the location and type of infrastructure.	Low – it is not clear where developers would undertake new electricity works and therefore the location and/or extent of potential impacts.
Non-monetised costs		<i>Low</i>	
Additional benefits of the chosen option			
Project developers	Will enable developers to access a wider variety of conservation land through the fast-track process.	Medium – being able to access the fast-track process for projects on high value conservation land is likely to reduce costs for developers seeking to undertake projects in those areas.	Low – it is not clear where developers would undertake new electricity works and therefore the extent of benefits is not possible to quantify.
Central government departments (as regulators)	If economic growth results from the increased accessibility of fast-track for electricity works, this could result in an increased tax take. May help the government reach goals for decarbonisation.	Low	Low – the effects of allowing for fast-tracked electricity works on high value conservation land specifically are likely to be minor within the wider context of the economy.
Local government	No identified benefits	-	-
General public as part of current generation	Potentially increased economic growth through increased electrification, leading to increased living standards.	Low	Low – the development benefits associated with enabling electricity infrastructure in high value conservation land are unclear, and economic gains would be very small within the wider context of the economy.
General public as part of future generations	Potentially increased economic growth through increased electrification, leading to increased living standards.	Low	Low – the development benefits associated with enabling electricity infrastructure in high value conservation land are unclear, and

			economic gains would be very small within the wider context of the economy.
Iwi/Māori	No identified benefits specific to Māori	-	-
Conservation values	If increased electrification of energy infrastructure reduces carbon emissions, this will go some way towards reducing climate change impacts on biodiversity.	Low	Low – within the context of global climate systems, the benefits of allowing some electricity infrastructure on high value conservation land are negligible.
Non-monetised benefits		<i>Low</i>	

Section 3: Delivering an option

How will the new arrangements be implemented?

29. These changes to the Bill will be implemented as per the detail provided in the original Supplementary Analysis Report. The new system will be implemented to enable any new applications to be received from commencement (the day after Royal Assent). Implementing the system will require input from officials at the Ministry for the Environment, Environmental Protection Authority and Department of Conservation. While costs will be recoverable from applicants, it is unlikely that the full cost will be able to be recovered, and funding will be needed to cover the back-room systems which support decision-making. We do not anticipate that costs from the proposals in this document will significantly differ from what is required under the status quo in the Bill.
30. Changes to the Bill will be made by an Amendment Paper at Committee of the Whole House.

How will the new arrangements be monitored, evaluated, and reviewed?

31. As advised in the original Supplementary Analysis Report, a post-implementation assessment will be undertaken jointly by the Ministry for the Environment (MfE) and Ministry for Business, Innovation and Employment one year after enactment of the Bill. The changes proposed in this Supplementary Analysis Report will also be included in the post-implementation assessment.
32. Monitoring agencies will establish appropriate system indicators to integrate into their regulatory stewardship obligations. These system indicators are not intended to measure every aspect of the fast-track legislation but should enable the performance of the legislation to be traced in a tangible way.
33. Environmental impacts arising from the implementation of the Bill will be monitored through established environmental monitoring programmes which both MfE and DOC undertake to measure baseline environmental outcomes. This monitoring will likely only show trends.